

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM OCTOBER 14, 2009
OPEN SESSION

MINUTES OF OCTOBER 14, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of October 14, 2009, convening at 9:33 A.M. and adjourning at 12:50 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Holloway announced that he will be hosting an open house at the new Forest Hill office on Tuesday, October 27, 2009 from 5:00 – 7:30 PM.

Commissioner Holloway announced that the December 9, 2009 Lake Charles B&E will be held in the Police Jury Room.

Commissioner Campbell announced that there was an environmental ranking of America's 500 largest corporations in *News Week* last week in which several of the LPSC's regulated entities were listed.

Commissioner Boissiere announced that there was a sign-language interpreter translating the meeting this month.

Ex. 2 Ratification of the Relay Administrative Board (RAB) contract for relay services with Hamilton Relay Services.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and ratify the RAB's selection of Hamilton Relay Services as the relay services provider.

Ex. 3 **T-31115** - Louisiana Public Service Commission vs Dore' Enterprises, Inc. (Crowley, Louisiana)
In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly occurring on or about December 18, 2008.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2000.00, with \$1000.00 of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$1025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 4 **T-31116** - Louisiana Public Service Commission vs My Vac, LLC (Jennings, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on six counts; allegedly occurring on or about December 11, 2008.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission vote to accept the Staff Recommendation and accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2000.00, per count, with \$1000.00 of the fine on each count being suspended, conditioned upon not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$6025.00, to be paid within 15 days of the issuance of the Order herein. It should be noted that the Carrier has paid \$6025.00, pending approval of the stipulation and agreement reached by Staff and the Carrier.

Ex. 5 **T-31119** - Louisiana Public Service Commission vs Cornwell Well Service, Inc. (Summit, Mississippi). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on four counts; allegedly occurring on or about December 1, 2008 through December 2, 2008.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$4,025.00, to be paid within 15 days of the issuance of the Order herein. The Carrier has paid the \$4,025.00 fine and citation fee in anticipation of the Commission's approval of the Affidavit and Stipulation in which it plead guilty.

Ex. 6 **T-30593** - Deep South Vacuum Service, LLC (Broussard, Louisiana), ex parte. In re: Application for a common carrier certificate authorizing the transportation of solid and liquid waste, over irregular routes within the State of Louisiana.

In re: Request for Oral Argument by Deep South Vacuum Service, LLC.

Last Month's Ex. 5.

On motion of Commissioner Field, seconded by Commission Holloway, and unanimously adopted, the Commission voted to remand this item to the Administrative Hearings Division pursuant to Rule 56.

Ex. 7 **R-30579** – Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment "A", Section E 4. ***In addition, the Commission will review and assess the entire General Order and compare the economic studies performed in 1999 and the economic study recently completed and submitted to the Commission on July 10, 2008, by the Towing & Recovery Professionals of Louisiana, Inc., to review all rates, including but not limited to all hourly rates.***

In re: Discussion and possible vote on proposed order.

Last Month's Ex. 8

PASSED

Ex. 8 **U-30689** - Cleco Power, LLC, ex parte. In re: Application of Cleco Power, LLC for: 1) implementation of changes in rates and Formula Rate Plan to be effective upon the commercial operation date of Rodemacher Power Station Unit No. 3 (RPS-3); 2) favorable public interest determination for transmission upgrades in the Acadiana Load Pocket; and 3) renewal of transaction guidelines applicable to certain economy power purchases from Acadia Power Partners, LLC.

In re: 1) Discussion and possible vote on Recommendation. 2) Request for budget modification.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Uncontested Settlement pursuant to the conditions read into the record.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize the additional budget of \$65,000 for Exeter Associates to cover the prior and future work associated with this docket.

Ex. 9 Request for approval of Cleco Power, LLC site-specific contracts.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the site-specific contracts.

Ex. 10 **U-31123** - Cleco Power LLC, ex parte. In re: Application for Certificate of Public Convenience and Necessity for: (i) Authorization to Enter into a Proposed Power Purchase Agreement between Acadia Power Partners, LLC as seller and Cleco Power LLC as Buyer; (ii) Authorization to Recover in its Jurisdictional Rates the Charges that Cleco Power LLC pays under the Power Purchase Agreement; and (iii) Request for Expedited Treatment under the LPSC's Streamlined Certification Procedures for Limited Term Power Purchase Agreements.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and certify the Bridge Toll contract, subject to certain conditions, including a waiver of the Commission's lower of cost or market affiliate transaction pricing rule.

Ex. 11 **U-30590** - Greenleaves Utility Company, Inc. (Mandeville, Louisiana), ex parte. In re: Consolidated application for authority to (1) amend its Tariff to provide for an increase of two dollars for water service and also to (2) consolidate the terms of and rates for service for all customers under said tariff.

In re: Stipulated Agreement.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Stipulated Settlement filed into the record on September 22, 2009.

Ex. 12 **U-31099** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application to flow through to retail rates the retail effects of credits and payments resulting from FERC Opinions Nos. 468 and 468-A and related orders.

In re: Discussion and possible vote to hire outside counsel.

Last Month's Ex. 9

PASSED

Ex. 13 **R-30820** - Louisiana Public Service Commission, ex parte. In re: Identification and evaluation of potential methods to decrease the vulnerability of electric utility transmission infrastructure in response to severe weather events.

In re: Report from Staff regarding status of docket and from Electric Utilities regarding hardening of transmission lines.

At request of Commissioner Field.

Brandon Frey updated the Commissioners on questions submitted to Cleco and Entergy regarding their transmission hardening efforts. Following presentations by Cleco and Entergy, Commissioner Field directed both companies to file detailed status reports regarding their transmission hardening and repair efforts into Docket R-30820.

- Ex. 14 **S-31126** - Northeast Louisiana Power Cooperative, Inc., ex parte. In re: Request for a letter of non-opposition to borrow long-term loan funds from the Federal Financing Bank through the Rural Utilities Service to finance capital improvement projects.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue the letter of non-opposition subject to the conditions read into the record.

- Ex. 15 **S-31143** - Dixie Electric Membership Corporation, ex parte. In re: Request for Non-Opposition to Long-Term Loan from the Rural Utilities Service to Finance Capital Improvements and Additions.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue a letter of non-opposition subject to the conditions read into the record.

- Ex. 16 **S-31145** - CenterPoint Energy Arkla, ex parte. In re: Request for Letter of Non-Opposition Regarding CenterPoint Energy Arkla Asset Management Agreement and Revenue Sharing Mechanism.

In re: Discussion and possible vote on proposed order.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue a letter of non-opposition subject to the conditions read into the record.

- Ex. 17 **S-31146** - CenterPoint Energy Entex, ex parte. In re: Request for Letter of Non-Opposition Regarding CenterPoint Energy Entex Asset Management Agreement and Revenue Sharing Mechanism.

In re: Discussion and possible vote on proposed order.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue a letter of non-opposition subject to the conditions read into the record.

- Ex. 18 Report by electric companies on their hedging practices.

Brandon Frey and Tom Allen with Suez Energy updated the Commission on Staff's discussions with Suez Energy regarding prior electric offers and potential future offers.

- Ex. 19 Clarification regarding Swearing In Rule.

PASSED

- Ex. 20 Report and recommendation by Staff on the inclusion of debt collectors into the Do Not Call program.

On motion of Commissioner Field, seconded by Commissioner Holloway, with Commissioners Campbell and Boissiere concurring and Commissioner Skrmetta objecting, the Commission voted to accept the Staff Recommendation and not amend the existing DNC program TSRA to extend to calls made by debt collectors.

- Ex. 21
- 1) Reports
 - 2) Resolutions
 - 3) Discussions

Commissioner Campbell directed utility companies to report back next month on their advertising practices, including whether ratepayers are paying for the advertisement.

- Ex. 22 **U-20925 (FRP-2006)** – Entergy Louisiana, LLC, ex parte. In re: 2006 Test Year Formula Rate Plan Filing.

At the request of Commissioner Boissiere.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to take this matter up pursuant to its plenary authority and the provisions of Rules 6.B.7 and 51 of the Commission’s Rules of Practice and Procedure.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Uncontested Proposed Stipulated Settlement.

- Ex. 23 **U-20925 (FRP-2007)** - Entergy Louisiana, LLC, ex parte. In re: 2007 Test Year Formula Rate Plan Filing.

At the request of Commissioner Boissiere.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to take this matter up pursuant to its plenary authority and the provisions of Rule 6.B.7, Rule 57 and Rule 51 of the Commission’s Rules of Practice and Procedure.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Uncontested Proposed Stipulated Settlement.

- Ex. 24 **U-28916 (TY 2007 FRP)** – Entergy Gulf States, LLC, ex parte. In re: Formula Rate Plan Evaluation Report for the test year ending December 31, 2007

At the request of Commissioner Boissiere.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to take this matter up pursuant to its plenary authority and the provisions of Rule 6.B.7, Rule 57 and Rule 51 of the Commission’s Rules of Practice and Procedure.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Uncontested Proposed Stipulated Settlement.

- Ex. 25 **U-30893** – Dixie Electric Membership Corporation, ex parte. In re: Request for approval of methodology to establish a Formula Rate Plan and approval of Rider Schedule FRP.

In re: Discussion and possible vote on Uncontested Proposed Stipulated Settlement.

At the request of Commissioner Field.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously

adopted, the Commission voted to accept the Staff Recommendation and adopt the Uncontested Proposed Stipulated Settlement as filed into the record.

Ex. 26 **R-28271 Sub B - Louisiana Public Service Commission, ex parte. In re: Re-study of the feasibility of a Renewable Portfolio Standard for the State of Louisiana**

In re: Comments by the Alliance for Affordable Energy

At request of Commissioner Boissiere.

Jesse George with the Alliance for Affordable Energy commented on the importance of this docket and the necessity to move this item along expeditiously.

Ex. 27 Report from Special Counsel with reference to the October 12, 2009, ERSC meeting in New Orleans and possible vote on the By-Laws.

At the request of Commissioner Field.

Special Counsel, Noel Darce, gave a report on the October 12, 2009 meeting of the ERSC. He indicated that the draft by-laws are being revised related to the voting structure and the provision related to the retention of state regulatory jurisdiction and that a vote may be required at the next Commission meeting to select an ERSC representative and to approve the revised bylaws. The cost benefit analysis process is underway, and an RFP will be issued soon to solicit the consultant to perform the study

Ex. 28 Discussion and possible vote regarding participation of in-house staff attorneys in cases involving outside counsel and consultants.

At the request of Commissioner Skrmetta.

Commissioner Skrmetta offered the following motion: That the Louisiana Public Service Commission shall immediately be represented by at least one in-house staff legal counsel in person during each of the listed actions or events, or any other action that may require appearance by outside legal counsel and/or contract consultant: 1) All Administrative Law Judge Hearings; 2) All Hearings of any kind outside the Louisiana Public Service Commission Administrative Law Judge system; 3) All Depositions; 4) All Mediations; 5) All Negotiations; 6) All Discovery meetings and discussions and documentary review and preparation sessions; 7) All Strategic Conferences as they pertain to litigation or issue consulting; and 8) Any and all situations that the Louisiana Public Service Commission requires and/or requests representation by an outside counsel and/or consultant.

Commissioner Holloway offered a substitute motion, seconded by Commissioner Boissiere, and unanimously adopted, to pass this item until next month for further review.

Ex. 29 Discussion and possible vote regarding creation of a mediation program by the LPSC.

At the request of Commissioner Skrmetta.

Commissioner Skrmetta offered a motion to immediately institute a program of mediation of disputes and claims by and between rate payers and all regulated companies; as well as, disputes by and between all regulated companies and the Louisiana Public Service Commission.

Commissioner Holloway offered a substitute motion, seconded by Commissioner Boissiere, and unanimously adopted, to pass this item until next month for further review.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adjourn the meeting.

MEETING ADJOURNED

The next Business and Executive Session will be held November 10, 2009 at 9:00 a.m. in Baton Rouge, Louisiana.